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MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.  
1800 DIAGONAL RD., SUITE 370  
ALEXANDRIA, VIRGINIA 22314

In re Application of: IDO, et al.  
Application No. 10/784,999  
Filed: February 25, 2004  
For: STORAGE SYSTEM, BACKUP SYSTEM  
AND BACKUP METHOD

DECISION ON PETITION  
TO MAKE SPECIAL  
(ACCELERATED EXAMINATION)  
UNDER M.P.E.P. §708.02 (VIII)

This is a response to the petition filed June 23, 2005, under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **DISMISSED**.

M.P.E.P. §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

- (a) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);
- (b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;
- (c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;
- (d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and
- (e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

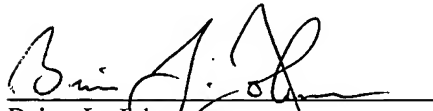
The petition filed June 23, 2005 fails to adequately meet requirements (e) of the criteria set forth above. With respect to requirement (e), applicant failed to provide a detailed discussion on how the claimed subject matter is patentable distinct over the (US 2004/0073675 Honma et al.) and (US 2004/0078419 Ferrari et al.) references. The statement provided in the petition (i.e. "all other references uncovered by the search and cited in the IDS even date are not treated in detail herein") is not sufficient to meet requirement (e) above.

Petitioner is reminded of the proper content of an Information Disclosure Statement (IDS), as set forth in M.P.E.P. 609 and 37 CFR §1.97 & §1.98, such IDS "shall include list of all patents, publications, applications, or other information submitted for consideration by the Office". Presently, a listing of those references cited within the instant petition, although discussed in detail in the petition and indicated to have been submitted, have not been listed on an attached PTO form 1449 or PTO/SB/08 (or such listing has not reached the file). To ensure proper consideration, a listing of these references should be provided. In the instant petition, applicant cited Honma et al., US #2004/0073675; however, the IDSs of record does not contain the Honma et al. reference.

Petition to Make Special **DISMISSED**.

Petitioner is given one opportunity to perfect the petition. Any request for reconsideration must be filed within TWO MONTHS of the mail date of this decision.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.



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7/18/05

AWK